

REMARKSIntroduction

The present application was the subject of a Request for Continued Examination, filed June 19, 2002, at a time when all claims then pending in the application had been allowed and the issue fee paid.

This RCE was filed upon discovery of pertinent prior art concerning a computerized trading system, called the "Iowa Electronics Market", developed at the College of Business at the University of Iowa. Accordingly Applicants submitted with said RCE four representative documents regarding the structure and operation of the "Iowa Electronics Market":

1. 08/25/1995 Wall Street Journal article entitled "Iowa Market Takes Stock of Presidential Candidates";
2. 1990 Iowa Electronics Market "Prospectus" regarding 1990 Iowa and Illinois contest for U.S. Senate elections;
3. 1992 Iowa Electronics Market "Prospectus" regarding 1992 presidential election; and
4. 1995 Iowa Electronics Market "Prospectus" regarding a trading event directed to the trading in stock of Microsoft Corporation.

Since the filing of the RCE on June 19, 2002, no office action has been received; accordingly the undersigned respectfully requests entry of this preliminary amendment, which is directed to more clearly distinguish the present invention from the trading system disclosed in the Iowa Electronics Market prior art references, and also intended to more clearly define the present invention.

The four Iowa Electronics Market ("IEM") prior art references were obtained by a download from a list of "archival" materials found on a website maintained by the

University of Iowa Business School, www.biz.uiowa.edu , on "pages" at said website dedicated to the history and operation of the Iowa Electronics Market. While additional, similar prior art materials is also listed at said website, the materials submitted by Applicants in the 2002 Information Disclosure Statement are believed to be fully representative of all such archival material in terms of disclosures pertinent to the examination of the present application.

(The prior art IEM materials that have been submitted make reference to a contemporaneous "Trading Manual" document, but no such document was found at the biz.uiowa.edu website, and it may not longer be in existence; telephone and email requests to the "contact" addresses at said website, requesting further information regarding said "Trading Manual", and requesting access to it, were not returned. However, a form of "Trader's Manual" currently being proffered at the IEM website (at <http://www.biz.uiowa.edu/iem/trmanual/>) indicates that the general structure of the IEM system has not changed in particulars that patentably distinguish it from the trading system of the present invention).

Summary of Amendments to the Claims

As previously stated above, in this Preliminary Amendment, and as shown on the appended listing of claims pending upon submission of preliminary amendment, the following amendments have been made to the claims as presented upon filing of the RCE on June 19, 2002:

1. Former claims 1-5 have been conflated into a single, new claim 1 in order to more clearly present the invention as directed to a computerized trading system having the specific trading system elements previously distributed among claims 1-5.
2. Brief amendments have been made to each of former independent claims 11

(now 7); former claim 14 (now 10); former claim 17 (now 13); and former claim 27 (now 23), to more clearly distinguish the present invention as set forth in said claims from the IEM prior art referenced above.

3. In each of many dependent claims, an amendment has been made in the claim number reference of the parent claim, occasioned by the cancellation of former claims 2-5. Such amendments appear in claims 2-6, 8-9, 11-12, 14-22, and 25-26, all as shown on the appended listing of claims pending upon submission of preliminary amendment.
4. Former claims 31-34 have been cancelled, and not restated in any form.

The Iowa Electronics Market Trading System

The structure of the prior art IEM trading system is described for example in the second prior art reference cited above, the "1990 Iowa Electronics Market Prospectus regarding 1990 Iowa and Illinois contest for U.S. Senate elections". In this "1990 Senatorial Race Prospectus" it is thus explained that, for each election contest pitting a Republican candidate against a Democratic candidate, traders may purchase, from the system and at a price of \$ 2.00 each, "portfolio(s) consisting of one share in each of the candidates", that is, one share "of" the Republican candidate and one share "of" the Democratic candidate. Traders who have thus purchased, from the system, "portfolios" that contain an equal number of shares of the two competing candidates, may then proceed to trade shares in one or the other candidate to other traders, through a computerized market maintained by the system.

Upon the termination of the trading event, the actual senatorial election, the IEM system paid holders of shares of each candidate an amount equal to the fraction of the vote won by each candidate, multiplied by the \$ 2.00 initial portfolio purchase price: for example, each share of a candidate having obtained 40% of the vote was redeemable

for \$ 0.80. The "1990 Senatorial Race Prospectus" further explains that Traders may also earn gains, or incur losses, through the trading process prior to the conclusion of the trading event, as follows:

You make money by "buying low and selling high." Specifically, you will earn profits on any sale of a share at a price higher than the dividend it will earn in November and on any purchase of a share at a price lower than its November dividend. [1990 Prospectus, page 2]

The "1990 Senatorial Race Prospectus" illustrates three fundamental characteristics of the IEM trading system that patentably distinguish that system from the trading system of the present invention:

First, the IEM trading system requires every trader to purchase, from the system, shares that represent every outcome contemplated by the trading system. That is, entry onto the trading process requires the purchase, by every trader, of one or more units of a "portfolio", where each portfolio comprises a bundle including one share of each competing interest of the trading event, presumably including shares that represent an outcome which the trader may not favor.

Second, each trading event in the IEM trading system comprises as many independent trading "pits" as there are competing interests, and thus each event comprises at least two trading pits: where each trader was required to purchase portfolios each comprising shares of competing interests, each trader must now engaging in trades regarding one interest in one trading pit, and shares representing one or more competing interest(s) in a separate trading pit.

Third, in the IEM trading system, no single trading instrument has a fixed value. Rather, it is the portfolio, which comprises a share of each competing interest, that has a fixed value (\$ 2.00 in the case of the portfolios of the "1990 Senatorial Race Prospectus").

For example, assuming that a trading event concerns a "red" candidate and a "blue" candidate, a trader favoring the "red" candidate is thus required to purchase from the system a number of portfolios, say 100 portfolios at a price of \$ 2.00 each, and each of these portfolios will contain 100 shares "of" the "red" candidate and 100 shares "of" the "blue" candidate. There then exists in the IEM system both a market for Red candidate shares, and a separate market for Blue candidate shares, and trading activity in the Red candidate share proceeds wholly independently of trading in Blue candidate shares, with each of these two markets having its own, independent "bid" and "ask" operations.

The third IEM prior art reference, the "1992 Iowa Electronics Market "Prospectus" regarding 1992 presidential election", modified the payoff terms described above, in that, similarly to the trading system of the present invention, there is provided an "all or nothing" payoff whereby holders of shares of the presidential candidate winning the popular vote receive a \$ 1.00 per share payoff, and shares representing other, losing candidates become worthless. However this 1992 IEM trading system maintained the fundamental structure whereby each trader is required, at the outset, to purchase "unit portfolios" that comprise a tradable share of each of the contending candidates, and whereby a separate "bid" and "ask" market is created with respect to the shares of each of the contending candidates.

The fourth and last IEM prior art reference submitted is a 1995 "Prospectus" entitled "MSFT (Microsoft) Price Level Market Winner-Takes-All Contracts". This trading event type concerns the creation of two markets regarding the price movement of a single publicly traded stock, Microsoft common stock in the specific example, over a period of one month. The system arbitrarily sets a "cut-off" price (say, the closing price of the stock on a public exchange on the day prior to the start of the trading event), and

a system is established for trading two types of contracts (a "Microsoft-High" contract and a "Microsoft-Low" contract), each of which will payoff (\$ 1.00), or be worthless, depending on whether the publicly traded stock will, or will not, exceed the pre-set cut-off price at the termination of the trading event four weeks later. For this genre of trading event, a new trading event was apparently opened monthly, concerning the market movement of a specified, publicly traded stock (Microsoft common stock in this case), with each trading event to conclude a month later.

At the end of the month-long trading period, a \$ 1.00 per winning contract pay-off is paid by the system to those traders who are holding contracts besting the "cut-off" price criteria. That is, to holders of Microsoft-High contracts if, on that date the publicly traded price of Microsoft common stock exceeds the "cut-off" price, and to holders of Microsoft-Low contracts if, on that date the publicly traded price of Microsoft common stock is less to or equal to the "cut-off" price.

For this exemplary type of trading event, as for the other examples cited earlier, the fundamental structure and mechanics of the IEM trading system as earlier described remain unchanged:

Once again, entry by traders into this Microsoft stock event is through the purchase, from the system (and here at a price of \$ 1.00 per "unit"), of units of a portfolio where each such "unit" comprises both one Microsoft-High share and one Microsoft-Low share.

Once again, during the course of the trading event, two separate markets are created and activated, one market for the trading of Microsoft-High shares and another, separate market for the trading of Microsoft-Low shares, including provision in each of said two markets for placing "ask" and "bid" proffers regarding each of said Microsoft-High and Microsoft-Low contracts.

Thus all of the prior art IEM trading systems and programs are constrained by three fundamental conditions:

All IEM trading is initiated through a market-making process whereby the system operator, the IEM system, sells to each trader one or more units of a set portfolio that comprises one share of each of at least two different trading instruments. And

Every IEM trading event comprises a minimum of two separate markets, in which at least two contract instruments are independently traded, with full trading operations including "bid" and "ask" proffers being engaged in with respect to each trading instrument.

Thirdly, to the extent the IEM trading system involves a fixed value or fixed price system, the fixed price is that of a "bundle" of different and independently-traded shares, not a single trading instrument. As stated in the current version of the IEM trading system, on current display at its website, "So that the IEM neither makes nor loses money, assets are placed in circulation by issuing fixed-price bundles. For instance, a fixed-price bundle containing 2 assets whose liquidation value will sum to \$1.00 can be purchased from the exchange or sold to the exchange for \$1.00."

All IEM trading events are thus initiated by the sale, by the system, of bundles of different trading instruments to each and every single participant in the trading event, a condition that precludes the creation of new markets by ordinary traders, such as is made possible in systems according to the present invention.

In contrast to the IEM trading system, wherein the system operator sells shares to every trader in every market, the system of the present invention is purely trader-driven, and the system operator has only administrative functions: providing display means for a trading board, and providing accounting services for tracking purchase offers, for matching and executing trades, and for managing the accounts of traders.

The Present Invention Distinguished from the IEM Trading System

In stark contrast to the IEM trading system, and as described in detail in the specification of the present application, the trading system of the present invention employs, for each trading event, a single trading instrument that has a fixed price and two sides, and all trades occur in a single trading pit for each said instrument.

In a system according to the present invention, trading requires no purchases from the trading system operator (or any third party), and the system does not participate at any time as a buyer or seller of shares. For this reason the system of the present invention is truly a "trader-driven system", as stated in the preamble to each independent claim presented.

In a system according to the present invention, trading is initiated when a trader enters the trading pit and publishes a desire to purchase a specified number of contracts specifying one side or the other of the single trading instrument to be traded. To fund trades, each trader establishes a trading account with the system operator, and, upon proffering to trade, allows the system to set aside, from this trading account, a sum equal to the proffered purchase price multiplied by the number of contracts sought to be purchased, a sum then charged to the trader's account upon execution of a trade.

A match is made, and a trade immediately and automatically executed, whenever another trader proffers a desire to purchase contracts representing the opposing side of the same instrument, at a price that, aggregated to the price proffered by the first trader, equals or exceeds the fixed value of the trading instrument. That is, a match occurs, and a trade is executed, whenever offers to purchase contracts representing opposing sides of the "fixed-value" trading instrument are made at prices that are complementary or "reciprocal", in that their sum equals or exceeds said "fixed value". No such mechanism is disclosed in the IEM prior art references.

A trader wishing to close out a "Blue side high" account can do so at any time, simply by purchasing an equal number of Red side contracts at the then going price for Red side contracts.

The trading system of the present invention allows traders to create trading events at their sole discretion, simply by announcing an intention to trade a fixed price contract concerning an event, selected by the market-making trader, that has two opposing outcomes. For example, a trader can, on the morning of an evening baseball game, announce a desire to trade on the Boston Red Sox game, and initiate a market simply by proposing a \$10.00 contract value, and offering to purchase 100 "Red Sox win" contracts at a price of \$6.00 per contract. A market will be in play as soon as any other trader responds that he or she offers to purchase, say, 150 "Red Sox lose" contracts at a price of \$4.00: the system will declare a matched trade for 100 contracts, and leave open the second trader's offer to purchase the additional 50 "Red Sox lose" contracts at the \$4.00 offer price (though that trader may withdraw that offer at any time). A third trader may then enter the pit and offer to purchase 300 "Red Sox win" contracts, but now at the lower price of \$5.75, not enough to trigger a match with the second trader's pending offer, but more likely to attract complementary offers, and thus a match, than the second trader's offer, and so on.

Trades will continue as the game is played, contract prices for the two sides fluctuating with the fortunes of each team: if the Red Sox are down 3 runs at the start of the ninth inning, the offer price for "Red Sox win" contracts will by then have drastically shrunk, say to \$ 0.60 per contract, but at that price could still attract buyers, in matches with "Red Sox lose" contract purchasers, putting up \$9.40 per "Red Sox lose" contract for a seeming sure thing shot at a \$10.00 pay-off.

At the conclusion of the game, holders of contracts on the prevailing side will receive \$10.00 per contract. If a grand slam saved the Red Sox in the last of the ninth, last minute buyers of those \$0.60 contracts will gain the same \$10.00 per contract pay-off as traders who paid \$6.00 per "Red Sox win" contract at the start of the day, and chose to hold on to those contracts.

To initiate a market in a trading system according to the present invention, therefore, a trader need only to declare a trading object having a fixed "pay-off" value, two opposing "sides", and a determinable conclusion with a prevailing outcome, and then offer to purchase a specified quantity of contracts for a specified one of the two opposing sides of said trading object, as a price less than said fixed pay-off value.

In summary,

The IEM system requires traders, in order to participate in trading, *to purchase from the system operator one or more "units" of a "portfolio" that comprises a "bundle" of assets, including at least one share of each of at least two different trading instruments.*

In contrast the trading system of the present invention does not require traders to purchase anything from the system operator, or anyone else, prior to trading. The IEM system comprises, for each trading event, a minimum of at least two separate and independent markets, with a separate market for each of the types of trading instruments that make up the trading event.

In contrast the trading system of the present invention employs a single trading instrument for each trading event, and all trading activity involving the opposing "sides" of said instrument occur within a single trading pit.

The IEM trading system does not employ any single trading instrument having a fixed value. Instead the IEM system employs "portfolios" having a fixed price, but said portfolios each comprise a minimum of two separate trading instruments.

Conclusion

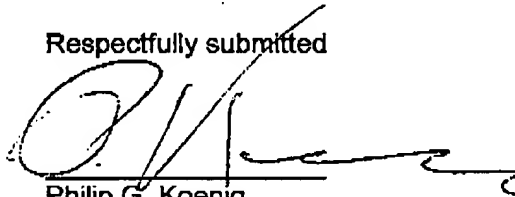
The present application was about to issue as a patent, in 2002, when discovery of the IEM prior art occasioned the filing of a Request for Continued Examination, lest the failure to have considered said IEM prior art should jeopardize the validity of the patent that was then about to issue. It is clear, from examination and comparison of the IEM prior art to the disclosure and claims set forth in the present application that the trading system of the present invention patentably differs in structure and operation from the IEM prior art trading system, and in particular that the trading system of the present invention provides clear and significant advantages not implemented, disclosed or suggested by the IEM prior art references.

Applicants believe that the claims now pending in the application, as amended in this Preliminary Amendment, are in condition for allowance, and in particular that said claims patentably distinguish from the prior art IEM references made of record upon filing of the RCE in this case. Applicants accordingly respectfully request the allowance of all of said pending claims.

In the event that any formal defect should obstruct or preclude the entry of this preliminary amendment, it is requested that the undersigned be notified, preferably by telephone at 781.721.6800.

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Respectfully submitted



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